

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRAVELERS CASUALTY AND
SURETY COMPANY,
a Connecticut corporation,

Plaintiff,

v.

Case No. 01-71057

CONSTITUTION REINSURANCE
CORPORATION, a New York
corporation,

HONORABLE AVERN COHN

Defendant.

ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This is a reinsurance case. Aetna Casualty and Surety Company (Aetna) insured Dow Chemical Company (Dow Chemical) and its affiliate, Dow Corning Corporation (Dow Corning), against various casualty losses.¹ Defendant Constitution Reinsurance Corporation (CRC) reinsured some of the policies. Dow Chemical incurred liability to third parties based on its silicone breast implant devices and chemical products. Dow Chemical and Travelers settled on the insurance amounts due and the allocation of losses among the policies. Travelers is now suing CRC to recover the benefits of the reinsurance agreements. Travelers makes four claims:

- (1) declaratory judgment regarding CRC's reinsurance obligations as to the Dow Chemical breast implant claims;
- (2) breach of contract as to the Dow Chemical breast implant claims;

¹ Plaintiff Travelers Casualty and Surety Company (Travelers) acquired Aetna in April 1996.

- (3) declaratory judgment regarding CRC's reinsurance obligations as to Dow Chemical's chemical product claims; and
- (4) breach of contract as to the Dow Chemical chemical product claims.

Before the Court is Travelers' Motion for Summary Judgment. The Court heard oral argument on the motion on July 13, 2005. For the reasons stated on the record, the motion is DENIED.²

SO ORDERED.

Dated: July 20, 2005

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was sent to counsel of record on this date, July 20, 2005, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160

² As Travelers has been advised before, "[a] district judge has the discretion to deny a Rule 56 motion even if the movant otherwise successfully carries its burden of proof if the judge has doubt as to the wisdom of terminating the case before a full trial." Veillon v. Exploration Servs., Inc., 876 F.2d 1197, 1200 (5th Cir. 1989).